

FINAL DRAFT EFFECTIVE 01/01/06-12/31/07

ADOPTED 09/20/05

Current Issues in Washington Commercial Real Estate A 3-Hour Mandated Curriculum & Learning Objectives

Upon completion of this course the student will be able to:

MODULE 1 – SPECIFIC AGENCY ISSUES AS THEY APPLY TO:

1. Describe the agency obligations regarding common **Environmental Issues**.
 - Provide or illustrate the resources or documents available to make the required disclosures and to address the issues in feasibility studies and “as-is” contract provisions.
 - This was covered in the last core, so instruction is minimal and just a reminder.
2. Explain the typical **Differences in Purchase and Sale Agreements and Leases**.
 - Using at least 3 different commonly used forms, including CBA’s, explain the differences and consequence of those differences in the following regard:
 - format
 - representations and warranties
 - feasibility
 - title review
 - seller financing
 - allocation of common area maintenance
 - options to extend
 - rent adjustment
 - notices
 - dispute resolution
 - other terms of significance
 - Instruct on proper methods or forms to revise and counter.
 - List available resources for licensees to utilize when they are unfamiliar with the forms. [This is the critical component of the course].
3. Explain and discuss the agency issues from the perspective of a selling and listing agent in regards to **Handling of Clients’ Funds**.
 - Include a description of conduct that may be adverse or detrimental to the purchaser and seller or contrary to law or safe practice.
 - Discuss role of escrow and legal counsel.
 - Review the contractual elements necessary to make the contract valid.
 - Analyze case studies provided by the department regarding the handling of earnest money. (see **Attachment A**)

4. Describe the complications of **Listing Real Estate Without a firm Price.**
5. Describe the agency complications of handling **In-House Transactions and Unpublished “Listings.”**
 - Discuss proper methods and legal ramifications.
 - Review contractual elements and describe licensee actions that may lead to conflict of interest or action that are or may become detrimental to the consumer or client or that may be contrary to law or regulation.
 - Discuss methods to protect against liability.
6. Explain the **Legal Aspects of Drafting** of agreements in relation to agency.
 - Review *Cultum v. Heritage House Realtors* and other relevant legal cases regarding the drafting of real estate transaction documents.
 - Note changes to CBA forms and identify resources for properly documenting non-standard transaction.

MODULE 2 – OTHER ISSUES

1. Explain limited **RESPA** applicability in commercial transactions, with a brief description of the consequences of non-compliance when the RESPA rules are not followed.
2. Discuss **Compensation** issues.
 - List possible scenarios that could lead a licensee into non-compliance.
3. Discuss typical **Disclosure** issues that arise in commercial transactions.
4. Discuss typical **Co-brokerage** issues that arise in commercial transactions.
5. Explain and discuss typical **Seller Financing** issues.
6. Discuss **Letters of Intent** and abuse and misuses of the form.
7. Discuss **Interstate Transactions** and associated licensing issues.

ATTACHMENT A

Case Studies on Handling of Earnest Money

1. The selling licensee writes an offer that calls for a \$5,000 earnest money due upon acceptance of the offer. The selling agent never asks for or collects the earnest money.
2. The selling licensee writes an offer that calls for a \$20,000 earnest money. The earnest money check is given to the licensee made payable to the broker as licensed. The licensee loses the earnest money check.
3. The selling licensee writes an offer that call for a \$10,000 earnest money due upon acceptance. Five (5) business days after acceptance, the purchaser delivers the earnest money to the agent.